

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

VAYA Telecom, Inc. (U7122C),

Complainant,

vs.

Pacific Bell Telephone Company d/b/a
AT&T California (U1001C),

Defendant.

Case 10-12-001
(Filed December 3, 2010 and
Amended on January 18, 2011)

And Related Matter.

Case 11-02-015

ORDER EXTENDING STATUTORY DEADLINE**Summary**

This decision extends the statutory deadline in these consolidated proceedings to December 18, 2015.

1. Background

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. These consolidated matters have been categorized as adjudicatory and the Commission has extended the statutory

deadline for resolving these proceedings several times. The last Decision (D.) 14-06-015 extended the statutory deadline to June 18, 2015.

On December 13, 2010, VAYA Telecom, Inc. (VAYA) filed complaint Case (C.) 10-12-001, seeking that the Commission resolve the dispute with Pacific Bell Telephone Company d/b/a AT&T California (AT&T), regarding the Interconnection Agreement (the Agreement or ICA) they have entered into which established, among other things, the terms and conditions pursuant to which VAYA and AT&T interconnect their networks for the purpose of exchanging telecommunications traffic with each other pursuant to Section 251(c)(2) of the Act.¹ On January 18, 2011, VAYA filed an Amended Complaint to incorporate an unresolved dispute concerning AT&T's billing of tandem switching elements of its interstate switched access tariff for certain transit traffic, including Voice over Internet Protocol (VoIP) traffic.

On February 17, 2011, AT&T filed C.11-02-015 against VAYA requesting that the Commission find that VAYA has breached the parties' ICA by delivering to AT&T California InterLATA traffic over Local Interconnection Trunks.

Various motions and law & motion disputes have been filed and on March 29, 2011, a Ruling was issued in C.10-12-001 addressing these motions and approving the Confidential Interim Settlement Agreement between the parties. Despite the efforts of the parties and the Commission, there were several delays in meeting terms of the Confidential Settlement. These delays were outside the parties' control. A Prehearing Conference was held on April 26, 2011, and both complaints were consolidated. On December 5, 2011, a scoping ruling was

¹ "Act" means the Communications Act of 1934, 47 U.S.C 153 *et seq.*, as amended by the Telecommunications Act of 1996.

issued. During the pendency of this case, legislation on VoIP-enabled communications service was under consideration by the California Legislature. Until final legislation was adopted, it was unclear if the issues of VoIP traffic raised by VAYA in the complaint would be affected by the pending legislation. Senate Bill (SB) 1161 regarding VoIP-enabled communications service was ultimately adopted on September 28, 2012. We now find SB 1161 is not determinative of the issues raised in the complaint.

On October 8, 2013, VAYA moved to hold the matter in abeyance for at least 60 days to allow settlement discussions to continue. On October 14, 2013, AT&T opposed holding the matter in abeyance. The Motion to Hold Matter in Abeyance was denied.

On January 16, 2014, the Commission issued D.14-01-006, which addressed the legal issues raised by the complaint. The Commission determined that the parties' interconnection agreement (ICA) provided that traffic exchanged between the parties would be classified, for purposes of compensation, as Local, Transit, intra-Local Access Transport Area (LATA) toll,² or interLATA toll, based on the telephone numbers of the calling and called parties. The Commission also found that delivery of InterLATA traffic to AT&T over the local interconnection trunks violates the parties' ICA, whether or not that traffic is VoIP traffic. The proceeding remains open for the limited purpose of resolving the amounts due pursuant to the parties' ICA.

² California now contains ten Local Access Transport Areas (LATAs), each served by various local telephone exchanges. InterLATA traffic is traffic that originates and terminates in different LATAs. IntraLATA traffic is traffic that originates and terminates in the same LATA.

Subsequent to issuing the decision, the Commission directed the parties to submit a joint statement showing the amount of traffic transmitted by VAYA to AT&T, the classification of that traffic, amounts already paid to AT&T, and additional amounts due to AT&T for termination of the subject traffic. Parties were unable to file the joint statement and filed separate statements upon approval by the Judge.

On February 20, 2014, VAYA filed an Application for Rehearing of D.14-01-006. On the same day, AT&T moved to have the Commission enforce D.14-01-006. On March 25, 2014, VAYA moved to strike portions of AT&T's response to VAYA's Application for Rehearing. On February 12, 2015, the Commission issued D.15-02-022 which denied VAYA's Application for Rehearing of D.14-01-006.

Although the Commission resolved the underlying legal issues of these combined complaints, the parties have been unable to resolve the amounts due pursuant to D.14-01-006. These issues are currently set for evidentiary hearings on June 29 – July 1, 2015, although the parties continue to pursue the possibility of an agreed-upon resolution of the remaining issues.

2. Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, the otherwise applicable period for public review is being waived.

3. Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge in these proceedings.

Findings of Fact

1. The complaint Case 10-12-001 was initiated on December 3, 2010 and later amended on January 18, 2011.
2. The complaint Case 11-02-015 was initiated on February 17, 2011.
3. D.14-01-006, issued on January 16, 2014, resolved the legal issues raised by these complaints.
4. Based upon the statutory deadline, these proceedings must be resolved within 12 months of their initiation, unless this date is extended.
5. An extension of the statutory deadline is necessary to allow the Commission to permit parties time to comply with D.14-01-016, to resolve the issues of fact regarding amounts owed to AT&T, either through evidentiary hearings or by agreement.

Conclusions of Law

1. The statutory deadline imposed by Public Utilities Code Section 1701.2(d) should be extended until December 18, 2015.
2. This order should be effective immediately.

IT IS ORDERED that the statutory deadline in these proceedings is extended until December 18, 2015.

This order is effective immediately.

Dated _____, at San Francisco, California.